

Communitywise Bellingham (CWB) has been identified by the EIS Agencies as a Key Stakeholder. We have been active in developing research and suggesting process for the last two years. Our focus is local, Whatcom County and Bellingham. This is one in a series of comments on specific aspects of issues.

Unresolved railroad capacity issue could introduce unnecessary and major delays into the EIS process

In the interest of avoiding delays to the EIS process we would like to highlight an unresolved issue that, if not dealt with in a timely fashion, could cause serious delays downstream. It is a fundamental issue specific to Whatcom County Code that defines requirements for a Major Project permit. This particular issue has been under discussion for some time.¹ This is a fundamental responsibility of the project applicant.² Importantly, Whatcom County has indicated that they share concern about the issue with the City of Bellingham.³ In their letter, the County indicated that they had insufficient time and expertise to deal with the capacity issue expeditiously. They indicated an understandable pragmatic decision to defer the required analysis until the expertise of EIS consultants became available to assist in review.

That is how things stand today. Analysis of the capacity issue has been delayed, yet the requirements of the code stand. Until this one specific railroad capacity issue is resolved, completeness of the permit remains in question. If the permit does not contain all required infrastructure plans in Whatcom County, the EIS remains in question. If additional infrastructure plans are required to complete the permit, additional time is likely required to submit them. Any plans that are added to the permit will require additional comments. All of this takes time. This is clearly an issue best addressed sooner than later.

CWB believes that the lack of capacity on the Bow to Ferndale segment has been documented beyond any reasonable doubt and that a simple review of the facts by the EIS Consultants will establish the need for additional capacity.⁴ This would allow the County to move forward in a timely manner hopefully keeping the process on track and avoiding more delays.

Should the consultants desire to look further, there is a ready avenue to confirm the facts and shed light on another potential issues - the impact on passenger rail. Whatcom Council of Governments (WCOG) rail studies from the summer of 2011 included relevant capacity simulations conducted by Wilbur Smith Associates in concert with BNSF.⁵ These studies included 4 different configurations of infrastructure which demonstrated, using BNSF peak train data from October 2010, that significant additional passenger service could be accomplished without the

¹ CWB letters to County May 11th and May 16th 2012 (attached), full legal status discussed in an EIS comment submitted by CWB counsel Philip Buri on October 22, 2012 and found [here](#).

² The code requirements to include all plans and that costs not be shifted to third parties applies to the project applicant, it is understood that the applicant will need to work with BNSF to obtain all plans.

³ August 3, 2012, attached

⁴ A separate comment summarizing Whatcom County and Bellingham specific railroad capacity documentation has been attached for convenience of the reader.

⁵ WCOG, DMU Feasibility Study, May 2011, see page 26 for configuration of simulation 3.

need for major siding improvements on the Samish Bay and Bellingham waterfronts (we note in particular simulation 3). The study also indicates that both the researchers and BNSF considered the results would not be attainable were GPT built. By reviewing those simulations and by re-running the simulations with the addition of the full build out GPT train traffic, answers could be determined for two important questions - whether capacity for GPT exists without additional infrastructure and what potential impact the traffic may have on existing or future planned passenger service.

CWB is likely not alone in sensing that there are many process participants who may ultimately be willing to challenge acts or decisions of the developers and the Agencies should they see reasonable cause. Answering this important question and insuring the County Permit and therefore the EIS process itself is complete, timely and lawful would seem to be a prudent course of action.